IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No. 1067 of 2001
(Old No. 2645 of 1995)

Smt. Sarojini Devi
W/o Manohar Singh Rawat
A.N.M., Matra Evam Shishu Kalyan Kendra,
Rudraprayag,
District – Rudraprayag
R/o Belni, Rudraprayag,
Police Station – Rudraprayag
District – Chamoli ... Applicant

Versus

1. State of Uttaranchal
2. Station Officer,
   Police Station – Rudraprayag
   District – Rudraprayag
3. Sri Veer Singh
   S/o Gyan Singh
   R/o Village Golkhandi (Gwar Thapli)
   Police Station – Rudraprayag
   District – Chamoli .... Respondents

Shri Arvind Vashist, learned counsel for the petitioners.
Shri G.S. Sandhu, learned A.G.A. for the State

Hon'ble J.C.S. Rawat, J.

Heard learned counsel for the parties and perused the record.

This petition u/s 482 Cr.P.C. has been filed for quashing the proceedings of criminal case no. 789/1995 State Vs. Sarojini Devi u/s 304/314 I.P.C. pending before C.J.M., Chamoli and chargsheet No. 4/95 dated 30.05.1995 filed in crime no. 24/1995 u/s 304/314 I.P.C.

The F.I.R. was lodged in the police station, Rudraprayag by Veer Singh wherein it has been

alleged that on 07.04.1995 at 12:15 P.M. treatment was given by the petitioner to his wife suspecting to be cause of her death alleged to have taken place on 14.03.1995. It is also alleged in the F.I.R. that Ashari Devi was not keeping well since last one year and she used to take medicine by her own. On the basis of this F.I.R., the investigating Officer submitted the chargesheet u/s 314/304 I.P.C. which has been filed before the court below. The counter affidavit which has been filed by Veer Singh before this court has stated in paragraph 4 of the counter affidavit that the wife of the deponent disclosed him a year back that in the event of some complication she used to take medical advise from petitioner. He has stated in his affidavit that during her last stay with the deponent from 12.03.1995 to 14.03.1995, she did not disclose anything connecting the petitioner with the administration of any medicine or surgical operation. It was on the basis of the information given by the deponent a year back, the deponent lodged the F.I.R. The statement u/s 161 Cr.P.C. filed alongwith the supplementary affidavit in which it is not clearly stated that the petitioner administered any surgical operation. The F.I.R. as well as statement only reveal suspicion upon the accused. The suspicion cannot take the place of

proof and as such there is no evidence to support the chargesheet as well as the cognizance order.

Therefore, the petition is liable to be allowed.

In view of the above, the entire proceedings including the cognizance order passed by the learned trial court in criminal case no. 789/1995 State Vs. Sarojini Devi u/s 304/314 I.P.C. pending before C.J.M., Chamoli and chargsheet No. 4/95 dated 30.05.1995 filed in crime no. 24/1995 u/s 304/314 I.P.C. are hereby quashed.

The petition is disposed of accordingly.

(J.C.S. Rawat, J.)

31st August, 2005
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